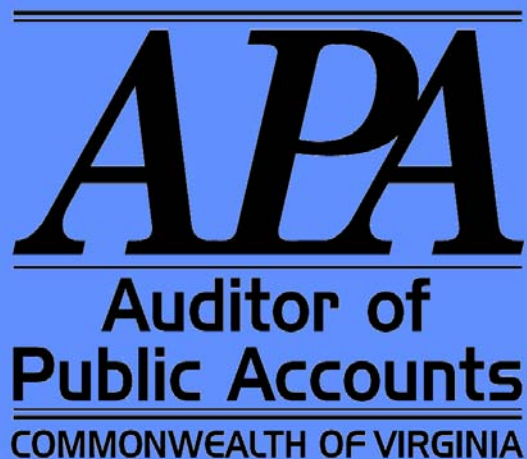


**VIRGINIA OFFICE FOR PROTECTION
AND ADVOCACY**

**REPORT ON AUDIT
FOR THE PERIOD
JULY 1, 2006 THROUGH JUNE 30, 2008**



AUDIT SUMMARY

Our audit of the Virginia Office for Protection and Advocacy (Office) for the audit period July 1, 2006 through June 30, 2008, found:

- proper recording and reporting of all transactions, in all material respects, in the Commonwealth Accounting and Reporting System and the Office's accounting records;
- matters involving internal control and its operations necessary to bring to management's attention; and
- no instances of noncompliance with applicable laws and regulations or other matters that are required to be reported.

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AUDIT FINDINGS AND RECOMMENDATIONS

Strengthen Information Systems Security Program

The Office has not fully evaluated its information technology risk using either the Commonwealth's IT security standard, those issued by the federal government, or industry best practices. Recently the Office just started a formal evaluation of these risks. Completing this process will allow the Office to know if it has incorporated appropriate mitigating safeguards in the Office's information systems security plan, which should decrease the Office's risk of a data breach, corrupt data, and unavailable data.

The Office has informal controls, which help to mitigate some of the risks associated with their information systems. However, the IT security standards issued by the Commonwealth and the federal government are based on industry best practices and require that each agency take prescribed actions to evaluate and document their data protection requirements to ensure that their data is safe from improper or unauthorized use or disclosure.

The first step in evaluating these risks, which the Office has now started, is to conduct a business impact analysis to determine what systems contain sensitive information or are mission critical. The second step is to perform a risk assessment of these systems to ensure the Office has established, documented, and communicated to the staff the proper mitigating controls.

The Department of Accounts offers assistance through its Accounting and Internal Control Compliance Oversight unit in establishing and maintaining information security programs for smaller-sized agencies using the Commonwealth's IT security standards. The Office has contacted the Department of Accounts, which has indicated it may be able to provide the Office with only limited support. Given that the Office's accounting system and client database are held and managed by outside parties, the Office may need only limited support to strengthen its information systems security plan.

OPERATIONAL HIGHLIGHTS

The Office

The Office is an independent state agency that strives to solve problems for disabled individuals through the legal system. The Office protects and advances legal, human, and civil rights of persons with disabilities; combats and prevents abuse, neglect, and discrimination; and promotes independence, choice, and self-determination by persons with disabilities.

The Office provides advocacy services and legal representation for persons with disabilities. Because the Office has limited resources, it selects specific areas in which to focus its work after obtaining public input, guidance from two advisory councils, and approval from the Board of Directors (Board). The Office uses these areas of focus to develop selection criteria for accepting or declining cases. The Office may pursue cases outside of the stated criteria with the approval of the Executive Director, who serves at the pleasure of the Board.

Board of Directors

An 11-member board, consisting entirely of citizens, governs the Office. The Speaker of the House of Delegates appoints five members, the Senate Committee of Rules appoints three members, and the Governor appoints three members. The Code of Virginia requires all Board members to be disabled or a parent, family member, guardian, advocate, or authorized representative of a disabled individual. Additionally, the chairs of the Office's two advisory councils serve as ex-officio members of the Board.

The Code of Virginia outlines the powers and duties of the Board. The Board appoints an Executive Director and annually evaluates the Director's performance. The Executive Director, who cannot be a member of the Board, must be an attorney in good standing with the Commonwealth and capable of administering and directing the provision of protection and advocacy for persons with disabilities. Additionally, the Board must prepare and submit budgets to the General Assembly, establish general policies for the Office, advise and assist the Executive Director in developing annual program priorities, and monitor and evaluate the operations of the Office.

Programs

The Office provides services through various programs; all programs provide information and referral services, training and outreach, and systems advocacy. The following are descriptions of the Office's programs along with Office provided program statistics for the two year period.

- *Virginians with Disabilities Act Program* – Allows the Office to bring legal action in the event of unlawful discrimination in employment, voting, state programs and activities, education, transportation, housing, and access to places of public accommodation.
- *Help America Vote Act Program* – Monitors the way the Commonwealth and local Boards of Elections implement the Help America Vote Act with regard to persons with disabilities. During the audit period, the Office resolved six issues involving polling site inaccessibility, completed voting and outreach presentations at several mental health facilities throughout the Commonwealth, and assisted citizens by providing registration forms, absentee ballot applications, and assistance when requested.

- *Developmental Disabilities Program* – Protects persons with developmental disabilities who have experienced abuse, neglect, or discrimination in education, housing, employment, community programs, treatment, or services. During the audit period, the program served 248 individuals, including 49 cases that were pending from fiscal year 2006. The Office resolved a majority of its closed cases with technical assistance in self-advocacy, short-term assistance, investigation and monitoring, and negotiation.
- *Protection and Advocacy for Individuals with Mental Illness Program* – Protects human rights and access to services for mental health facility residents, persons recently discharged, or persons living in the community who have a mental illness. During the audit period, the program served 226 individuals, including 38 cases that were pending from fiscal year 2006. The Office resolved a majority of its closed cases with short-term assistance, negotiation, and mediation.
- *Client Assistance Program* – Protects the rights and benefits of people who are applicants or clients of the Department of Rehabilitative Services, Department for the Blind and Vision Impaired, Centers for Independent Living, or other programs funded under the Rehabilitation Act of 1973, as amended. During the audit period, the program served 105 individuals, including 29 cases that were pending from fiscal year 2006. The Office resolved a majority of its closed cases with information, referrals, advising, and negotiation.
- *Assistive Technology Program* – Assists disabled individuals in obtaining access to assistive technology devices and services. During the audit period, the program served 56 individuals, including 3 cases that were pending from fiscal year 2006. The Office resolved a majority of its closed cases by providing short-term assistance to the clients. The Office also presented a total of 20 training sessions serving 425 individuals.
- *Protection and Advocacy of Individual Rights Program* – Provides information or services that help clients overcome discrimination, barriers to living independently, or barriers to accessing benefits. The program also provides services to individuals not eligible for other advocacy programs. During the audit period, the program served 200 individuals, including 25 cases that were pending from fiscal year 2006. The Office resolved a majority of its closed cases with technical assistance in self-advocacy, short-term assistance, and negotiation.
- *Protection and Advocacy for Beneficiaries of Social Security Program* – Provides assistance and individual representation to beneficiaries with disabilities who are seeking vocational rehabilitation services, employment networks, and other services providers. Such assistance and representation may include individual advocacy services and various forms of alternative dispute resolution to address issues that arise in the developing, implementing, and amending a beneficiary's individual work plan under the Ticket to Work and Self-Sufficiency program. During the audit period, the program served 49 individuals, including 20 cases that were pending from fiscal year 2006. The Office resolved a majority of its closed cases with short-term and technical assistance.

- *Traumatic Brain Injury Program* – Improves access to comprehensive and high-quality services and reduces incidences of discrimination. The Office uses the program to educate individuals and families about their rights, reduce eligibility barriers for community services, and enable access to quality health care, rehabilitation, and other services. During the audit period, the program served 41 individuals, including 2 cases that were pending from fiscal year 2006. The Office resolved a majority of its closed cases with short-term assistance, negotiation, investigation and monitoring, and administrative hearings.

FINANCIAL HIGHLIGHTS

As illustrated in Table 1 below, federal grants and indirect federal cost recoveries are the primary funding sources for the Office, accounting for 92 percent of the total funding during the audit period.

Table 1

Budget and Actual Expense Analysis for the Protective Services Program by Funding Source

	<u>Program Expenses</u>			<u>Actual Expenses by Funding Source</u>		
	<u>Original Budget</u>	<u>Final Budget</u>	<u>Actual Expenses</u>	<u>General Fund</u>	<u>Indirect Cost Recoveries, Federal</u>	<u>Federal Grants</u>
<u>2007</u>	\$2,883,903	\$2,939,292	\$2,721,999	\$227,674	\$135,717	\$2,358,608
<u>2008</u>	\$2,883,903	\$3,340,472	\$3,152,631	\$243,666	\$182,817	\$2,726,148

Source: Commonwealth Accounting and Reporting System

As illustrated in Table 2 below, personal services accounted for the highest percentage of the Office's expenses in both fiscal years 2007 and 2008, 81 percent and 73 percent, respectively. Additionally, Table 2 shows that Other expenses increased by \$334,449 (118 percent) from fiscal year 2007 to 2008, which was the result of the compounding effect of three separate events that lowered expenses in fiscal year 2007 and increased them in fiscal year 2008. First, the Office won a case in 2007, and recorded the approximately \$70 thousand in proceeds of the case as an offset to its expenses, thus lowering their fiscal year 2007 expenses. Second, the Office paid almost \$65 thousand for two years worth of subscription services for on-line legal resources in fiscal year 2008 and did not make similar payments in fiscal year 2007. Finally, the Office invested an estimated \$40 thousand in equipment during fiscal year 2008, which it did not do in fiscal year 2007. These three events, coupled with modest increases across multiple expenses resulted in the Office increasing its Other expenses in fiscal year 2008.

Table 2

	<u>Expenses by Type</u>	
	<u>2007</u>	<u>2008</u>
Personal services	\$2,214,653	\$2,302,772
Rent	149,968	167,647
Travel	73,136	63,521
Other	<u>284,242</u>	<u>618,691</u>
Total	<u>\$2,721,999</u>	<u>\$3,152,631</u>

Source: Commonwealth Accounting and Reporting System

As of the end of fiscal year 2008, the Office held a total of \$91,626 in case proceeds and interest earnings in its federal fund. The Office is retaining this program income under the additional costs alternative provision, which permits the Office to use the income for costs that further the broad objectives of the Office. While this provision establishes no requirement for using the program income before other federal funds or sets no due date for expending the funds, the Office's management is expecting to use this one-time funding in fiscal year 2010 to cover normal operating expenses.



Commonwealth of Virginia

Walter J. Kucharski, Auditor

**Auditor of Public Accounts
P.O. Box 1295
Richmond, Virginia 23218**

April 1, 2009

The Honorable Timothy M. Kaine
Governor of Virginia
State Capital
Richmond, Virginia

The Honorable M. Kirkland Cox
Chairman, Joint Legislative Audit
and Review Commission
General Assembly Building
Richmond, Virginia

We have audited the financial records and operations of the **Virginia Office for Protection and Advocacy** (Office) for the two year period ending June 30, 2008. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Audit Objectives

Our audit's primary objectives were to evaluate the accuracy of recorded financial transactions in the Commonwealth Accounting and Reporting System and the Office's accounting records, review the adequacy of the Office's internal controls, and test compliance with applicable laws and regulations.

Audit Scope and Methodology

The Office's management has responsibility for establishing and maintaining internal control and complying with applicable laws and regulations. Internal control is a process designed to provide reasonable, but not absolute, assurance regarding the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations.

We gained an understanding of the overall internal controls, both automated and manual, sufficient to plan the audit. We considered materiality and control risk in determining the nature, timing, and extent of our audit procedures. Our review encompassed controls over the following significant cycles, classes of transactions, and account balances.

Payroll Expenditures
Board Governance
Contractual Services
Information Systems Security

We performed audit tests to determine whether the Office's controls were adequate, had been placed in operation, and were being followed. Our audit also included tests of compliance with provisions of applicable laws and regulations. Our audit procedures included inquiries of appropriate personnel, inspection of documents, records, manuals, contracts, reconciliations, and observation of the Office's operations. We tested transactions and performed analytical procedures, including budgetary and trend analyses.

Conclusions

We found that the Office properly stated, in all material respects, the amounts recorded and reported in the Commonwealth Accounting and Reporting System and its accounting records. The Office records its financial transactions on the cash basis of accounting, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. The financial information presented in this report came directly from the Commonwealth Accounting and Reporting System.

We noted certain matters involving internal control and its operation that require management's attention and corrective action. These matters are described in the section entitled "Audit Findings and Recommendations."

Exit Conference and Report Distribution

We discussed this report with management on April 14, 2009. Management's response has been included at the end of this report.

This report is intended for the information and use of the Governor and General Assembly, management, and the citizens of the Commonwealth of Virginia and is a public record.

AUDITOR OF PUBLIC ACCOUNTS

GDS/alh



COMMONWEALTH of VIRGINIA

Toll Free Assistance
1-800-552-3962
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Virginia Office for Protection and Advocacy
1910 Byrd Avenue, Suite 5
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(804) 225-2042
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www.vopa.state.va.us

April 21, 2009

Walter Kucharski
Auditor of Public Accounts
P. O. Box 1295
Richmond, Virginia 23218

Dear Mr. Kucharski:

Thank you for the opportunity to respond to the report on the audit of the Virginia Office for Protection and Advocacy for the period of July 1, 2006 through June 30, 2008. We are pleased that, once again, the auditors found no instances of noncompliance with applicable laws and regulations and did find proper recording and reporting of transactions. We likewise appreciate the auditors' recognition that we have begun our evaluation of systems security risks. The Virginia Office for Protection and Advocacy has developed and tested procedures to enable the office to continue operations in the event of an emergency. We appreciate the advice and suggestions offered by your agency for strengthening this process.

Sincerely,

A handwritten signature in black ink, appearing to read "V. Colleen Miller".

V. Colleen Miller
Executive Director

VCM:lms

VIRGINIA OFFICE FOR PROTECTION AND ADVOCACY

BOARD MEMBERS

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